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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/822,405

04/12/2004

Syed R. Iqbal

1139-026

2888

25215

7590

10/30/2006

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EXAMINER

PHAN, THIEM D

ART UNIT

PAPER NUMBER

3729

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/822,405	Applicant(s) IQBAL ET AL.	
	Examiner Tim Phan	Art Unit 3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 and 28-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-27 and 47-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/15/06 & 12/02/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Election/Restrictions***

1. Applicants' election with traverse of Species IVA (Claims 24-27 and 47-50) filed on 9/27/06 is acknowledged. The traversal is on the grounds that all the Species IV-A to IV-D are under class 29, subclass 415 while ignoring that they do not have mutually exclusive characteristics as required (MPEP 806.04(f)), therefore there is no burden in the search. This is not found persuasive because the examiner has established a prima facie case, filed on 8/29/06, that the inventions of Species IV-A to IV-D do have mutually exclusive characteristics under MPEP 806.04(f) where "one claim recites limitations which under the disclosure are found in a first species but not in second or other species, while another claim in second species recites the limitations disclosed only for the second species and not the first nor the other; and the mutually exclusive characteristics are patterned similarly in subsequent species".

In accordance with MPEP § 803, the Examiner has demonstrated that the inventions of Groups I to IV and Species IV-A to IV-D are each independent or distinct as claimed (filed on 8/29/06) and a serious burden would be placed on the examiner. The requirement is still deemed proper and is therefore **made FINAL**.

Claims 1-23 and 28-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Groups or Species, there being no

allowable generic or linking claim for Claims 1-23; except for Claims 28-46.

Applicants are required to cancel these nonelected Claims (1-23 and 28-46) or take other appropriate action.

An Office Action on the merits of Claims 24-27 and 47-50 now follows.

Information Disclosure Statement

2. The information disclosure statement filed 3/15/06 and 12/02/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but **some of the information referred to** therein has not been considered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 24-27 and 47-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Inoue et al (US 5,450,894).

With regard to claim 24, Inoue et al teach a process of controlling air flow control through a car seat (Figs. 1, 83 & 84), comprising:

- drawing ambient air through a surface (Fig. 1, 60) of a transportation vehicle seat (Fig. 1, 50) into a mixing region (Fig. 1, area of 64) of the seat;
- mixing the drawn ambient air with a cooled fluid by evaporator (Fig. 1, 78) provided to the mixing region; and
- removing the resulting mixture from the mixing region through intermediate duct (Fig. 1, 66).

With regard to claim 25, Inoue et al teach that the step of providing cooled fluid through the use of a thermoelectric device or evaporator (Fig. 1, 78).

With regard to claim 26, Inoue et al teach that the pressure in the mixing region (Fig. 1, area of 74, 78, 82 & 80) can be maintained below or above the ambient pressure so that substantially all of the resulting mixture does not pass through the seating surface (Fig. 1, 50) immediately.

With regard to claim 27, Inoue et al teach that the cooled fluid is provided by blowing cooled air (Fig. 1, 78) into the mixing region (Fig. 1, area of 74, 78, 82 & 80) while preventing substantially all of the resulting mixture from passing through the seating surface (Fig. 1, 50).

With regard to claim 47, Inoue et al teach that at least a portion of the resulting mixture is exhausted (Fig. 1, f1) to ambient air.

With regard to claim 48, Inoue et al teach the step of re-circulating (Fig. 87(B), area 60) at least a portion of the removed resulting mixture back into the mixing region.

With regard to claim 49, Inoue et al teach that the pressure in the mixing region (Fig. 1, area of 74, 78, 82 & 80) can be maintained below or above the ambient pressure so that the mixture substantially all of the resulting mixture does not pass through the seating surface (Fig. 1, 50) immediately.

With regard to claim 50, Inoue et al teach that the cooled fluid is provided by blowing cooled air (Fig. 1, 78) into the mixing region while preventing substantially all of the resulting mixture from passing through the seating surface (Fig. 1, 50).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Phan whose telephone number is 571-272-4568. The examiner can normally be reached on M - F, 9AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Tim Phan", written in a cursive style.

Tim Phan
Examiner
Art Unit 3729

tp
October 24, 2006